

AMENDED IN SENATE APRIL 7, 2016

SENATE BILL

No. 929

Introduced by Senator Vidak

February 1, 2016

An act to ~~amend Section 2640 of~~ *add Section 2640.2 to* the Probate Code, relating to ~~protective proceedings~~; *conservatorship*.

LEGISLATIVE COUNSEL'S DIGEST

SB 929, as amended, Vidak. ~~Compensation of guardians and conservators. Conservator appointments: compensation.~~

Existing law permits a conservator of the estate to petition the probate court for an order fixing and allowing compensation to the conservator for services rendered and to the attorney for services rendered. Existing law also permits a person who unsuccessfully petitioned for the appointment of a conservator to petition the probate court for an order fixing and allowing compensation to the person and the person's attorney for services rendered in connection with the appointment of a conservator.

This bill would permit a person who successfully petitioned for the appointment of a conservator, as specified, to petition the probate court for an order fixing and allowing compensation to the person and the person's attorney for services rendered in connection with the appointment of a conservator.

~~Existing law provides for the appointment of a guardian or a conservator of a person or an estate in specified circumstances. Existing law authorizes a guardian or conservator of an estate to petition the court for, and for the court to grant, an order fixing and allowing compensation to the guardian or conservator of the estate, the guardian~~

or conservator of the person, or an attorney for services rendered to the guardian or conservator of the person or estate or both.

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2640.2 is added to the Probate Code, to
2 read:

3 2640.2. (a) When a conservator nominated by a third party is
4 appointed by the court, but not before the expiration of 90 days
5 from the issuance of letters, the person who has petitioned for the
6 appointment of that conservator and that person's attorney may
7 petition the court for an order fixing and allowing compensation
8 and reimbursement of costs.

9 (b) Notice of the time and place of the hearing shall be given
10 at least 15 days before the day of the hearing in the manner
11 provided in Chapter 3 (commencing with Section 1460) of Part 1.

12 (c) At the hearing, the court shall make an order to allow both
13 of the following:

14 (1) Any compensation or costs requested in the petition the court
15 determines are just and reasonable to the person who petitioned
16 for the appointment of a conservator for the person's services
17 rendered in connection with and to facilitate the appointment of
18 the conservator, and costs incurred in connection therewith.

19 (2) Any compensation or costs requested in the petition the court
20 determines are just and reasonable to the attorney for that person,
21 for the attorney's services rendered in connection with and to
22 facilitate the appointment of the conservator, and costs incurred
23 in connection therewith.

24 (d) Any compensation and costs allowed shall be charged to
25 the estate of the conservatee. If a conservator of the estate is not
26 appointed, but a conservator of the person is appointed, the
27 compensation and costs allowed shall be ordered by the court to
28 be paid from property belonging to the conservatee, whether held
29 outright, in trust, or otherwise.

30 ~~SECTION 1. Section 2640 of the Probate Code is amended to~~
31 read:

1 ~~2640. (a) At any time after the filing of the inventory and~~
2 ~~appraisal, but not later than 90 days after the issuance of letters or~~
3 ~~any other period of time that the court for good cause orders, the~~
4 ~~guardian or conservator of the estate may petition the court for an~~
5 ~~order fixing and allowing compensation to any one or more of the~~
6 ~~following:~~

7 ~~(1) The guardian or conservator of the estate for services~~
8 ~~rendered to that time.~~

9 ~~(2) The guardian or conservator of the person for services~~
10 ~~rendered to that time.~~

11 ~~(3) The attorney for services rendered to that time by the~~
12 ~~attorney to the guardian or conservator of the person or estate or~~
13 ~~both.~~

14 ~~(b) Notice of the hearing shall be given for the period and in~~
15 ~~the manner provided for in Chapter 3 (commencing with Section~~
16 ~~1460) of Part 1.~~

17 ~~(c) Upon the hearing, the court shall make an order allowing~~
18 ~~(1) compensation requested in the petition the court determines is~~
19 ~~just and reasonable to the guardian or conservator of the estate for~~
20 ~~services rendered or to the guardian or conservator of the person~~
21 ~~for services rendered, or to both, and (2) compensation requested~~
22 ~~in the petition the court determines is reasonable to the attorney~~
23 ~~for services rendered to the guardian or conservator of the person~~
24 ~~or estate or both. The compensation allowed to the guardian or~~
25 ~~conservator of the person, the guardian or conservator of the estate,~~
26 ~~and to the attorney may, in the discretion of the court, include~~
27 ~~compensation for services rendered before the date of the order~~
28 ~~appointing the guardian or conservator. The compensation allowed~~
29 ~~shall thereupon be charged to the estate. Legal services for which~~
30 ~~the attorney may be compensated include those services rendered~~
31 ~~by a paralegal performing legal services under the direction and~~
32 ~~supervision of an attorney. The petition or application for~~
33 ~~compensation shall set forth the hours spent and services performed~~
34 ~~by the paralegal.~~

35 ~~(d) Notwithstanding subdivision (c), the guardian or conservator~~
36 ~~shall not be compensated from the estate for costs or fees that the~~
37 ~~guardian or conservator incurred in unsuccessfully opposing a~~
38 ~~petition, or other request or action, made by or on behalf of the~~
39 ~~ward or conservatee, unless the court determines that the opposition~~

- 1 ~~was made in good faith, based on the best interests of the ward or~~
- 2 ~~conservatee.~~

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